

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

209

CRM-M-6101-2026
Date of Decision: 23.03.2026

KAMALDEEP @ DEEPA
Vs.
STATE OF PUNJAB
....PETITIONER
.....RESPONDENT

CORAM: HON'BLE MS. JUSTICE NEERJA K. KALSON

Present:- Mr. Akhil Saini, Advocate
for the petitioner.
Mr. Nitesh Sharma, DAG, Punjab.

NEERJA K. KALSON, J.

1. The present petition has been filed under Section 483 of the Bhartiya Nagarik Suraksha Sanita, 2023 seeking grant of regular bail to the petitioner in case bearing FIR No. 26 dated 24.02.2024, under Section 376, 376(3) IPC and Section 4 of POCSO Act, (Amended), 2012, 2019, registered at Police Station Satnampura, District Kapurthala (Annexure P-1).
2. The case set up in the FIR in question (as set out in the present petition by the petitioner) is as follows:-

“Statement of xxxxx, daughter of xxxxx, resident of xxxxxx, Police Station Satnampura, Phagwara, District Kapurthala, age about 26 years, mobile number xxxxxx, stated that I am a resident of the above address and I work as a private nurse at Jindal Hospital. My uncle xxxxxx, son of xxxxxx, and my aunt xxxx, who are mentally disturbed, having two daughters. Their elder daughter's name is xxxxxxxx, who is about 13 years old and the younger daughter xxxxxx, who is about 7 years old. The date of birth of my uncle's elder daughter xxxxxxxx is 05/12/2010. That on 22/02/2024, she left home at around 12:00 and did not return till 02:30, so I started looking for my uncle's daughter xxxxxx, and I came to know that Kamaldeep alias Deepa, son of Darshan Ram,



resident of Nanak Nagar, took my uncle's daughter xxxxxxxx into his room at his residence. I knocked on the gate of his house many times but he did not open the door and Kamaldeep alias Deepa's sister-in-law Kamaljit Kaur was present at his house. After a while, Kamaldeep alias Deepa, after looking around, take out my uncle's daughter xxxxxxxx out of his house. Who was very scared at that time. Whom I took to my house and gave her water etc. to drink. Then, I asked why Kamaldeep alias Deepa took you to his room, who said that I will tell you the whole story later and xxxxxxxx was very scared and frightened at that time. xxxxxxxx told me yesterday that Kamaldeep alias Deepa had called me to his house by shouting and gave me two oranges to eat and took me to the room. Where he forcibly raped me, regarding which I told everything to my father Raj Kumar and my uncle and aunt. I mostly take care of xxxxxx. Kamaldeep alias Deepa has forcibly raped my uncle's daughter xxxxxx Appropriate legal action should be taken against Kamaldeep alias Deepa.”

3. Learned counsel for the petitioner submits that the petitioner has been in custody since 24.02.2024 i.e. for a period 02 years and 23 days. It is further contended that the present FIR was lodged with an inordinate and unexplained delay of two days. Learned counsel submits that the applicant is a 100% blind person since birth and has duly substantiated the same by placing on record a medical disability certificate issued by the competent authority, (Annexure P-4). It is further submitted that the medico-legal report (MLR) of the alleged victim does not reveal any external or internal injury whatsoever and does not reflect any sign or medical opinion suggestive of penetration, thereby failing to support the essential ingredients of the alleged offence. He further stated that the medical evidence does not corroborate the prosecution version.

4. Learned counsel for the petitioner further submits that the applicant has been in continuous custody for a considerable period and that the



trial is likely to take substantial time for its conclusion. It is contended that continued incarceration of the petitioner would amount to pre-trial punishment, which is impermissible in law. It is further submitted that the petitioner has fully cooperated with the investigation and that no other FIR has been registered against him. Learned counsel argues that continued detention would violate the petitioner's fundamental right to life and personal liberty under Article 21 of the Constitution of India and would subject him to further mental and physical trauma. There is thus no tangible or substantive prosecution evidence warranting the continued incarceration of the petitioner. In view of the above, learned counsel prays for grant of regular bail to the petitioner.

5. Learned State counsel has opposed the present petition arguing that the allegations raised are serious in nature and thus, the petitioner does not deserve the concession of regular bail. Learned State counsel seeks to place on record custody certificate dated 22.03.2026 in Court, which is taken on record.

6. I have heard counsel for the parties and have gone through the available records of the case.

7. The petitioner was arrested on 24.02.2024 whereinafter investigation was carried out and the charges were framed against the petitioner on 24.04.2024. The prosecution has cited 17 witnesses, out of which 07 have been examined and 10 remaining are yet to be examined. The conclusion of the trial is likely to take a considerable time. It is indubitable that the petitioner has already suffered incarceration for about 02 years and 23 days with the trial no way to conclude in near future. In this regard, it will be apposite to place reliance upon the judgment of the Hon'ble Supreme Court



titled as **“Manish Sisodia versus Directorate of Enforcement”** 2024 INSC

595; relevant whereof reads as under:-

“50. As observed by this Court, the right to speedy trial and the right to liberty are sacrosanct rights. On denial of these rights, the trial court as well as the High Court ought to have given due weightage to this factor.

51. Recently, this Court had an occasion to consider an application for bail in the case of Javed Gulam Nabi Shaikh v. State of Maharashtra and Another wherein the accused was prosecuted under the provisions of the Unlawful Activities (Prevention) Act, 1967. This Court surveyed the entire law right from the judgment of this Court in the cases of Gudikanti Narasimhulu and Others v. Public Prosecutor, High Court of Andhra Pradesh⁷, Shri Gurbaksh Singh Sibbia and Others v. State of Punjab, Hussainara Khatoon and Others (I) v. Home Secretary, State of Bihar Union of India v. K.A. Najeeb and Satender Kumar Antil v. Central Bureau of Investigation and Another. The Court observed thus:

"19. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime."

52. The Court also reproduced the observations made in Gudikanti Narasimhulu (supra), which read thus:

"10. In the aforesaid context, we may remind the trial courts and the High Courts of what came to be observed by this Court in Gudikanti Narasimhulu v. Public Prosecutor, High Court reported in (1978) 1 SCC 240. We quote:

"What is often forgotten, and therefore warrants reminder, is the object to keep a person in judicial custody pending trial or disposal of an appeal. Lord Russel, C.J., said [R v. Rose, (1898) 18 Cox]:

"I observe that in this case bail was refused for the prisoner. It cannot be too strongly impressed on the, magistracy of the country that bail is not to be withheld as a punishment, but that the requirements as to bail are merely to secure the attendance of the prisoner at trial.""

53. The Court further observed that, over a period of time, the trial courts and the High Courts have forgotten a very wellsettled principle of law that bail is not to be withheld as a punishment. From our experience, we can say that it appears that the trial courts and the High Courts attempt to play safe in matters of grant of bail. The principle that bail is a rule and refusal is an exception is, at times, followed in breach. On account of non-grant of bail even in straight forward open and shut cases, this Court is flooded with huge number of bail petitions thereby adding to the huge pendency. It is high time that the trial courts



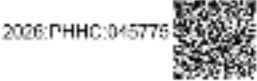
and the High Courts should recognize the principle that "bail is rule and jail is exception."

The rival contention of learned counsel for the parties; as to whether there is any tangible prosecution evidence available against the petitioner & as to whether the petitioner has been falsely implicated in the FIR in question; shall be gone into during the course of trial. This Court does not deem it appropriate to delve deep into these rival contentions, at this stage, lest it may prejudice the trial. Nothing tangible has been brought forward to indicate the likelihood of the petitioner absconding from the process of justice or interfering with the prosecution evidence. As per custody certificate dated 22.03.2026 filed by learned State counsel, the petitioner who is a blind person aged 45 years, has already suffered incarceration for about 02 years and 23 days and is not shown to be involved in any other case.

Suffice to say, further detention of the petitioner as an undertrial is not warranted in the facts and circumstances of the case.

8. In view of above, the present petition is allowed. Petitioner is ordered to be released on regular bail on his furnishing bail/surety bonds to the satisfaction of the learned concerned CJM/Duty Magistrate. However, in addition to conditions that may be imposed by the concerned CJM/Duty Magistrate, the petitioner shall remain bound by the following conditions:-

- (i) The petitioner shall not mis-use the liberty granted.
- (ii) The petitioner shall not tamper with any evidence, oral or documentary, during the trial.
- (iii) The petitioner shall not absent himself on any date before the trial.
- (iv) The petitioner shall not commit any offence while on bail.



- (v) The petitioner shall deposit his passport, if any, with the trial Court.
- (vi) The petitioner shall give his cell-phone number to the Investigating Officer/SHO of concerned Police Station and shall not change his cell-phone number without prior permission of the trial Court/Illaqa Magistrate.
- (vii) The petitioner shall not in any manner try to delay the trial.

9. In case of breach of any of the aforesaid conditions and those which may be imposed by concerned CJM/Duty Magistrate as directed hereinabove or upon showing any other sufficient cause, the State/complainant shall be at liberty to move cancellation of bail of the petitioner.

10. Ordered accordingly.

11. Nothing said hereinabove shall be construed as an expression of opinion on the merits of the case.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed of.

(NEERJA K. KALSON)
JUDGE

23.03.2026

pry	Whether Speaking/reasoned	Yes/No
	Whether Reportable	Yes/No